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WESTERN DISTRICT OF WASHINGTON	

Magistrate Judge Mary Alice Theiler

#### UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

BEFORE, MARY ALICE THEILER, United States Magistrate Judge, U. S. Courthouse, Seattle, Washington.

The undersigned complainant being duly sworn states:

## COUNT ONE (Unlawful Storage of Explosives)

On or about the 3rd day of November, 2008, in the Western District of Washington, the defendant, RONALD L. STRUVE, knowingly stored high explosives in a manner not in conformity with regulations promulgated by the Attorney General, in that he stored high explosives, at a commercial storage facility at 12863 Northup Way, Bellevue, Washington 98005, said facility not then conforming with the requirements of storage facilities for high explosives, in violation of Title 18, United States Code, Sections 842(j) and 844(b), and Title 27, Code of Federal Regulations, Section 555.201 et seq.



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#### <u>COUNT TWO</u> (Unlawful Possession of Firearms)

On or about the 3rd day of November 2008, in the Western District of Washington, the defendant, RONALD L. STRUVE, knowingly possessed firearms, not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5841, 5861(d), and 5871.

I, DAVID M. CLINE, being first duly sworn, says:

#### **INTRODUCTION**

- 1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, and have been so employed since October 28, 2007. In 2004, I obtained a bachelor's degree from St. Louis University. After graduating, I served in the United States Army, including serving overseas in Iraq. I have received extensive firearms and law enforcement training, and have conducted several investigations of violations of federal firearms laws.
- 2. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from other law enforcement agents. This affidavit is made for the sole purpose of demonstrating probable cause for this criminal complaint, and does not purport to set forth each and every fact I have learned in connection with this investigation.
- 3. As discussed below, there is probable cause to believe that STRUVE has violated Title 18, United States Code, Section 842(j), which provides that it is unlawful "for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General." There is also probable cause to believe that STRUVE has violated Title 26, United States Code, Section 5861(d), which provides that it is unlawful "to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record."

### RELEVANT STATUTORY PROVISIONS

4. Title 18, United States Code, Section 842(j) provides that it is unlawful "for any person to store any explosive material in a manner not in conformity with regulations

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- 5. Title 26, United States Code, Section 5861(d), provides that it is unlawful "to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record."
  - 6. Title 26, United States Code, Section 5845(a) provides:
  - (a) Firearm. -- The term "firearm" means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term "firearm" shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.
  - 7. Title 26, United States Code, Section 5845(e) provides:
  - (e) Any other weapon.— The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

#### FACTS DEMONSTRATING PROBABLE CAUSE

8. On November 13, 2008, ATF Special Agent Heidi Wallace received a call from an individual who had recently purchased the contents of a storage unit located at 12863 Northup Way, Bellevue, Washington 98005. The caller explained that someone had not paid the storage fee on a unit at the storage facility, and, as a result, an auction was held for the unit's contents. The caller had won the auction and transported the unit's contents to his garage. The caller explained that some of the auction contents contained firearms, and that he wanted ATF to examine the firearms to determine whether they were legal to possess. Special Agent Wallace went to the individual's home later that day to examine the firearms.

Anti-Tank Practice Rifle Grenade Lot # CFO1-18 7-52; eight 20MM Rounds; one 20MM APIT

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1	Round Lot # DN32; one M/81 40MM Practice Grenade Lot # ME 808001-004; one M503A1	
2	PD Fuze Lot # LOP1287-4-55; four 20MM fuses; two T328 30MM HE Fuzes Lot # HVM	
3	15-44-54; one 30MM Practice Fuse; three military shell casings w/primers; one 30MM round;	
4	and one .50 caliber round of ammunition.	
5	f. An ammunition container containing six M112 1.25 LBS Blocks of C-4	
6	Plastic High Explosives Lot # CIL-2-4 12-68; and two approximate 50-foot rolls of blasting fuse	
7	/ safety fuse.	
8	g. An ammunition container containing three M6 electric blasting caps; two	
9	XM228 Practice Grenade Fuses with caps; one M206A1 Grenade Fuse; and three copper	
10	non-electric blasting caps.	
11	h. A bag containing two MPG-100CN Multi-Purpose Law Enforcement Riot	
12	Control Grenades Manufactured by 1009 Molalla Ave.,	
13	Box # 962, Oregon City, Oregon 97045 (503) 656-1601.	
14	i. Two ammunition containers containing several dozen U.S. Army Booby	
15	Trap simulators.	
16	j. An ammunition container containing eight M159 White Star Cluster	
17	Signal Illumination rounds Lot # LOW 4-34 loaded 11-71; and one Marine MK13 Mod 0 Signal	
18	Smoke Illumination flare Lot # 31 HK 1266.	
19	k. An ammunition container containing five M21A1Amber Star Signal	
20	Ground Parachute Flares manufactured by M. Backes Sons Inc. Oct 44 Lot # MBS-190; and one	
21	M22A2 Rifle Grenade Smoke Yellow Lot # OAP 9-13.	
22	l. A bag containing four M6 Electric Blasting Caps Lot # HEP 46-13 loaded	
23	3/68.	
24	m. An ammunition container containing two WWII Stick Grenades.	
25	n. One wooden crate containing approximately 22 lbs of multiple different	
26	smokeless gun powders.	
27	o. An ammunition container containing approximately 19 lbs of multiple	
28	different smokeless gun powders.	

- p. An ammunition container containing three M18 Red Smoke Grenades Lot # 1028-74-7017; one M25A2 CS Grenade Lot # 102S45121; one AN-M8 HC Smoke Grenade; two M116A1 Simulator Hand Grenades Lot # PYC-1-07 03-68; one MK13 MOD0 Signal Smoke Illumination Lot # 6HKO167 JAN1967; one T66E1 Signal Distress Red Star Parachute Flare Lot #46 Loaded June 53; and one M7A3 CS Riot Control Grenade Lot # 2015-76-1001.
- 10. ATF Special Agents determined that one of the 40mm High Explosive rounds had been previously fired (dud-fired), which made it a dangerous live, unexploded ordnance.

  Accordingly, ATF destroyed it via countercharge at a local bomb squad range for public safety purposes.
- 11. On November 14, 2008, ATF Special Agents returned to the address of the caller to view more auction items. They discovered three bags containing M14 suppressor parts, one bag containing M16 suppressor parts, one High Standard .22 caliber silencer, an M14 frame only, and a Browning machine gun frame. ATF Explosive Enforcement Officer Phil Whitley also visited the location and seized the following explosives: twenty-one 40mm Practice Grenades, approximately twenty 20mm projectiles, three .50 caliber High Explosive Incendiary rounds, and one .50 caliber electric cartridge.

#### A. Unlawful Storage Explosives

- 12. Title 18, United States Code, Section 842(j) provides that it is unlawful "for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General." Title 27, Code of Federal Regulations, Section 555.201 et seq., sets forth the requirements for storing explosive material.
- 13. Title 27, Code of Federal Regulations, Section 555.201 *et seq.*, sets forth particular requirements for storing "high explosives." Title 27, Code of Federal Regulations, Section 555.202(a) defines "high explosives" to mean "Explosive materials which can be caused to detonate by means of a blasting cap when unconfined, (for example, dynamite, flash powders, and bulk salutes)."
- 14. Special Agent Kirk Dennis has advised me that the auction contents contained "high explosives," including: fifty-four 40MM M406 High Explosive Grenades Lot # MA-110-9

1	and six M112 1.25 LBS Blocks of C-4 Plastic High Explosives Lot # CIL-2-4 12-68. Special
2	Agent Dennis has advised me that storage of these explosives at the Bellevue storage facility was
3	not in compliance with Title 27, Code of Federal Regulations, Section 555.201 et seq., for
4	several reasons. First, STRUVE's unit, which had a door that lead directly to the outdoors, was
5	not a proper outside magazine to house high explosives. Under Section 555.206, outdoor
6	magazines housing high explosives must be located a certain distance apart from inhabited
7	buildings, which is defined under Section 555.11 to mean any structure, including a store, where
8	people are accustomed to assemble. In this case, there was a minimum of 10 pounds of high
9	explosives in the unit. Under Section 555.218, the explosives had to be located a minimum of
10	180 feet from an inhabited building. STRUVE's unit was directly adjacent to a number of other
11	units that were rented and visited by other individuals. As a result, high explosives were
12	improperly stored to close to an inhabited building. Second, the explosives were not properly
13	stored in containers with marks that are readily visible, as required under Section 555.214(b).
14	Third, Section 553.213(b) provides that high explosives generally may not be stored with
15	detonators. The storage unit in this case contained both high explosives and detonators. Fourth,
16	under Title 27, Code of Federal Regulations, Section 555.201(f), any person who stores
17	explosives materials is required to notify the authority having jurisdiction for fire safety in the
18	locality in which the explosive materials are being stored. Special Agent Wallace has advised
19	me that a manager at the Bellevue facility said that the facility was not aware that any explosives
20	were being stored in the facility, and was never contacted about the explosives by any fire
21	department, suggesting that STRUVE failed to comply with the notification requirement.
22	15. In sum. I have probable cause to believe that the explosives identified in

In sum, I have probable cause to believe that the explosives identified in paragraph 13 were not stored in conformity with regulations promulgated by the Attorney General, in violation of Title 18, United States Code, Section 842(j).

#### В. Unlawful Possession of Firearms.

16. Title 26, United States Code, Section 5861(d), provides that it is unlawful "to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record." As set forth in paragraph 6, the definition of "firearm" is contained in

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Title 26, United States Code, Section 5845(a).

- 17. After examining the auction contents, Special Agent Wallace, based on her training and experience, identified several items that she has probable cause to believe are "firearms" as that term is defined under Title 26, United States Code, Section 5845(a). These items are described in Attachment A to this Affidavit.
- 18. Special Agent Wallace has advised me that she has reviewed the ATF National Firearms Registration and Transfer Record for these items, and that none of the items are registered. Special Agent Wallace also has advised me that she has reviewed search results from the ATF National Firearms Registration and Transfer Record database for any firearms registered to RONALD L. STRUVE. Special Agent Wallace learned that none of the items identified in Attachment A are registered to STRUVE.

#### C. Struve's Links to the Explosives and Firearms

- 19. As set forth above, ATF Special Agents inspected the auction contents from the individual who had won the auction. ATF Special Agents found two Alaska Airline tags that were among the storage unit's contents. The tags contained a California address and the name, "RONALD STRUVE." The same name was on the cover of an ammunition reloading instruction book.
- 20. On November 17, 2008, Special Agent Wallace contacted a manager at the Bellevue storage facility. She gave Special Agent Wallace a copy of the rental agreement for the unit that was sold at auction. The agreement showed that the unit was rented on October 25, 1990, in the name of Gary Moll. The agreement also showed an alternative name and phone number of RONALD L. STRUVE, phone number 869-1503. The agreement listed an address with Moll's name. However, Special Agent Wallace visited this location, and learned that a business, not a residence was located at the address.
- 21. According to the storage facility manager, Gary Moll was in the military, and last made a payment on August 11, 2008, for \$260.00. Since the storage manager was unable to contact either Gary Moll or RONALD STRUVE at the address or phone numbers provided, the unit went into default and the storage facility sold the unit's contents at auction on November 3,

1 | 2008.

22. On November 18, 2008, Special Agent Wallace visited the caller who
had won the auction. The caller stated that he had additional paperwork that he found among the
items that he had purchased. The paperwork included (1) a life insurance policy in the name of
RONALD L. STRUVE dated 9/19/1968; (2) a Kansas City Life Insurance Company notification
in the name of RONALD L. STRUVE, and (3) an application, dated August 23, 1968, in the
name of RONALD STRUVE

- facility that had housed the items that were sold at auction. Special Agent Wallace provided the facility's manager with two photographs: (1) Gary Moll's Alaska driver's license photograph and (2) RONALD STRUVE's Washington driver's license photo. The manager pointed to STRUVE's photograph, and said, "That's Gary." Special Agent Wallace asked the manager if she had met "Gary" before. The manager stated that she had, but that Gary had lost some weight since the time of the photograph. The manager also said that she had last seen Gary approximately four months ago. The manager said that she did not recognize the person in Gary Moll's Alaska driver's license photograph. Finally, the manager said that another individual had made a payment on the unit in the past through a credit card, but that she did not remember the name. Special Agent Wallace later determined that a person using a credit card in the name of "James O'Brien" had made a payment on the unit in June 2008.
- 24. On November 21, 2008, Special Agent Wallace visited the Public Storage facility at Northup Way in Bellevue, Washington to determine if RONALD STRUVE or Gary Moll had a rental unit at the facility. An employee at the facility accessed their computer system and stated that RONALD STRUVE had an active unit located at 2824 172nd Street, SW in Lynnwood, Washington. On December 10, 2008, Special Agent Wallace spoke with the manager at the Lynnwood storage facility. The employee informed Special Agent Wallace that she had telephoned STRUVE at 425-750-5010 on December 9, 2008. According to the employee, STRUVE had provided this telephone number in connection with his storage application. Special Agent Wallace determined that the phone number was registered to STRUVE based on

law enforcement database queries.

- 25. On December 17, 2008, Special Agent Wallace spoke with the manager at the Bellevue storage facility. The manager said that "Gary" had called about his storage unit over a week before. The manager stated that "Gary" had asked about the payment status of his unit. The manager said that she told the caller that the unit's contents had been sold at auction, and that he should contact ATF with any questions. According to the manager, the caller was upset at hearing this news.
- 26. On January 6, 2009, Special Agent Wallace reviewed the results of telephone records associated with the telephone number identified in paragraph 24. She also learned that the records show that a call was placed on the telephone to 425-454-3000, on December 8, 2008. Special Agent Wallace verified that this number is associated with the Bellevue storage unit.
- 27. On January 6, 2009, Special Agent Wallace, along with other ATF agents, executed a search warrant at 3001 East 53rd Avenue, Unit E4, Spokane, Washington 99223. While the search was being conducted, STRUVE verified that he was residing at the address. ATF agents located at the residence several receipts regarding the Bellevue storage unit, including receipts from 2006, 2007, and 2008.
- 28. STRUVE told Special Agent Wallace that the Bellevue storage unit had been his unit, and that he was the only person who was aware of the unit's contents. He confirmed the existence of multiple items described in Attachment A. He told Special Agent Wallace that he did not plan to sell the items from the storage unit, but rather he planned to use the items at some uncertain date in the future.

#### CONCLUSION

29. Based on the above facts, I respectfully submit that there is probable cause to believe that RONALD STRUVE unlawfully stored explosives, in violation of Title 18, United States Code, Sections 842(j) and 844(b), and Title 27, Code of Federal Regulations, Section 555.201 *et seq.*, and unlawfully possessed firearms, in violation of Title 26, United States Code, Sections 5841, 5861(d), and 5871.

David M. Cline, Complainant Special Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives Based on the Complaint and Affidavit sworn to before me, and subscribed in my presence, the Court hereby finds that there is probable cause to believe the Defendant committed the offenses set forth in the Complaint. \_day of January, 2009. United States Magistrate Judge 

#### ATTACHMENT A to Affidavit of David M. Cline

#### (Firearms Described in Paragraph 17)

- 1. MNF: VIETNAM, TYPE: MACHINE GUN, MODEL: KP50, CAL: 30, SN: 134762.
- 2. MNF: GERMANY, TYPE: MACHINE GUN, MODEL: MP40, CAL: 9, SN: 8638.
- 3. MNF: U.S. ORDNANCE INC., TYPE: DESTRUCTIVE DEVICE, MODEL: M79, CAL: 9, SN: 61824.
- 4. MNF: HARRINGTON AND RICHARDSON, TYPE: MACHINE GUN, MODEL: M14, CAL: 762, SN: 813113.
- 5. MNF: U.S. ORDNANCE INC., TYPE: DESTRUCTIVE DEVICE, MODEL: M79, CAL: \*\*, SN: 67959.
- 6. MNF: ARMALITE (ARTILLERIE INRICHTIGEN), TYPE: MACHINE GUN, MODEL: AR10, CAL: \*\*, SN: 002303.
- 7. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: NONE.
- 8. MNF: COLT, TYPE: MACHINE GUN, MODEL: AR15/M16A1, CAL: 556, SN: 801959.
- 9. MNF: COLT, TYPE: MACHINE GUN, MODEL: AR15/XM16E1, CAL: 556, SN: 739235.
- 10. MNF: COLT, TYPE: MACHINE GUN, MODEL: AR15/MODEL 4, CAL: 223, SN: 039753.

- 11. MNF: STEN, TYPE: MACHINE GUN, MODEL: STEN MK II, CAL: 9, SN: NONE.
  - 12. SILENCER TO A STEN MKII.
- 13. MNF: U.S. ORDNANCE INC., TYPE: MACHINE GUN, MODEL: M2 INLAND DIV, CAL: 30, SN: 7416176.
- 14. MNF: WINCHESTER, TYPE: MACHINE GUN, MODEL: M14, CAL: 762, SN: 1149185.
- 15. MNF: ITHACA GUN CO., TYPE: MACHINE GUN, MODEL: GUIDE M3A1, CAL: 45, SN: 630055.
- 16. MNF: GERMANY, TYPE: MACHINE GUN, MODEL: I, CAL: 45, SN: NONE.
- 17. MNF: ITHACA GUN CO., TYPE: MACHINE GUN, MODEL: GUIDE M3A1, CAL: 45, SN: 359246.
- 18. MNF: AUSTRALIAN, TYPE: MACHINE GUN, MODEL: MKI, CAL: 9, SN: C4032.
- 19. MNF: IZHMASH (IMEZ), TYPE: MACHINE GUN, MODEL: AK1954, CAL: 762, SN: 8566.
- 20. MNF: BROWNING, TYPE: MACHINE GUN, MODEL: UNK, CAL: 30, SN: NONE.
- 21. MNF: BROWNING, TYPE: MACHINE GUN, MODEL: MACHINE GUNE, CAL: 30, SN: NONE.

- 22. SILENCER: M14 SUPPRESSOR PARTS.
- 23. SILENCER: M14 SUPPRESSOR PARTS.
- 24. SILENCER: M14 SUPPRESSOR PARTS.
- 25. SILENCER: M16 SUPPRESSOR PARTS.
- 26. SILENCER: HIGH STANDARD .22 LR.
- 27. MNF: UNITED KINGDOM, TYPE: MACHINE GUN, MODEL: L1A1, CAL: 762, SN: AD6119386.
  - 28. SILENCER MARLIN WITH SERIAL NUMBER 5653435.
- 29. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: 1012317.
- 30. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: 976.
- 31. MNF: CHINESE, TYPE: MACHINE GUN, MODEL: M22, CAL: 762, SN: N010408.
- 32. CHINESE, TYPE: MACHINE GUN, MODEL: AKM, CAL: 762, SN: 12074052.
- 33. MNF: CZECHOSLOVAKIA, TYPE: MACHINE GUN, MODEL: CZ58, CAL: 762, SN: NONE.
- 34. MNF: ARMALITE (ARTILLERIE INRICHTIGEN), TYPE: MACHINE GUN, MODEL: AR10, CAL: \*\*, SN: 000380.
  - 35. MNF: UNKNOWN MANUFACTURER, TYPE: MACHINE GUN,

MODEL: L1A1, CAL: 762, SN: SPF2480.

- 36. MNF: STEN, TYPE: MACHINE GUN, MODEL: STEN MK II SMG, CAL: 9, SN: NONE.
- 37. MNF: STEN, TYPE: MACHINE GUN, MODEL: STEN MK II SMG, CAL: 9, SN: NONE.
- 38. MNF: STEN, TYPE: MACHINE GUN, MODEL: STEN MK II SMG, CAL: 9, SN: NONE.
- 39. MNF: UNKNOWN MANUFACTURER, TYPE: MACHINE GUN, MODEL: L1A1, CAL: 762, SN: AD6113465.
- 40. MNF: UNKNOWN MANUFACTURER, TYPE: MACHINE GUN, MODEL: L1A1, CAL: 762, SN: AD6713672.
- 41. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: 732.
- 42. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: 1466.
- 43. MNF: COLT, TYPE: MACHINE GUN, MODEL: AR15/XM16E1, CAL: 556, SN: NONE.
- 44. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: 204904.
- 45. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: 08954.

- 46. MAXIM SILENT FIREARMS CO. NEW YORK PAT MARCH 30, 1909.
- 47. SILENCER WITH SHIPPING TUBE. MAXIM SILENCER MCH 30, 1909-MAY 24, 1910. MADE IN HARTFORD, CT.
  - 48. MAXIM SILENT FIREARMS CO NEW YORK PAT MARCH 30, 1909.
- 49. 5 SILENCERS WITH PAT PENDING AND A NUMBER ON EACH.
  31, 10, 61, 62, 10.
- 50. MNF: HARRINGTON AND RICHARDSON, TYPE: MACHINE GUN, MODEL: M14, CAL: 762, SN: 940895.
- 51. MNF: NEW ENGLAND ARMS CO., TYPE: MACHINE GUN, MODEL: 1918A2, CAL: 30-06, SN: 508164.
- 52. MNF: F.N. (FN HERSTAL), TYPE: MACHINE GUN, MODEL: FAL, CAL: 762, SN: 3995.
- 53. MNF: TRW, INC., TYPE: MACHINE GUN, MODEL: M14, CAL: 762, SN: 1380515.